

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SIDNEY E. SMITH III and	)	
JILL P. SMITH, Executors of the Estate of	)	
SIDNEY E. SMITH, JR., deceased	)	
Plaintiffs	)	
	)	
v.	)	CIVIL ACTION NO. 02-264 ERIE
	)	
UNITED STATES OF AMERICA,	)	ELECTRONICALLY FILED
Defendant	)	

**PLAINTIFFS' SUPPLEMENTAL REQUEST FOR JURY INSTRUCTIONS**

Plaintiffs SIDNEY E. SMITH III and JILL P. SMITH, Executors of the Estate of Sidney E. Smith, Jr., deceased, by and through their attorneys, MacDonald, Illig, Jones & Britton, LLP, request that the following additional instructions be given to the jury in the trial of this case. Plaintiffs reserve the right to request additional instructions and to request the withdrawal or modification of any of the following instructions if the trial of this case should make such action appropriate.

Respectfully submitted,

s/W. Patrick Delaney  
W. Patrick Delaney  
Pa. Bar ID #23956  
MacDONALD, ILLIG, JONES & BRITTON LLP  
100 State Street, Suite 700  
Erie, Pennsylvania 16507-1459  
(814) 870-7658  
FAX (814) 454-4647  
pdelaney@mijb.com

Attorneys for Plaintiffs Sidney E. Smith III, et al.,  
Executors of the Estate of Sidney E. Smith, Jr.

PLAINTIFFS' REQUESTED JURY INSTRUCTION NO. 11(a)

You will recall that Mr. Sandy Smith testified on the nature of the shipping business and its operations, and the fair market value of a limited partnership interest in the Smith Family Limited Partnership. Mr. Smith is not an expert. However, as is the case here, the Federal Rules of Evidence do permit a witness who is an owner or officer of an entity to give an opinion on the value of that entity, as long as it is based on his own day to day participation and knowledge of its affairs. If you find that Mr. Smith's testimony is based on his personal knowledge and such testimony is helpful to you in understanding the subject upon which he testified, you may consider such testimony in determining the facts relating to this witness' testimony.

Federal Rules of Evidence 701

Federal Rules of Evidence 701 Comment

Asplundh Mfg. Div. v. Benton Harbor Eng'g, 57 F. 3d 1190, 1196 (3d Cir. 1995).

Lightning Lube, Inc. v. Witco Corp., 4 F.3d 1153 (3d Cir. 1993).

Pennsylvania Suggested Standard Jury Instructions 5.25

Accepted \_\_\_\_\_ Rejected \_\_\_\_\_ Modified \_\_\_\_\_

Respectfully submitted,

s/W. Patrick Delaney

W. Patrick Delaney

Pa. Bar ID #23956

MacDONALD, ILLIG, JONES & BRITTON LLP

100 State Street, Suite 700

Erie, Pennsylvania 16507-1459

(814) 870-7658

FAX (814) 454-4647

pdelaney@mjb.com

Attorneys for Plaintiffs Sidney E. Smith III, et al.,  
Executors of the Estate of Sidney E. Smith, Jr.

#911822